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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,135	11/03/1999	JOHN G. SAVAGE	8243.00	2108

7590

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EXAMINER

COSIMANO, EDWARD R

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/433,135

Applicant(s)

SAVAGE ET AL.

Examiner

Edward R. Cosimano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 July 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. Applicant should note the changes to patent practice and procedure:
 - A) effective December 01, 1997 as published in the Federal Register, Vol 62, No. 197, Friday October 10, 1997; and
 - B) effective November 07, 2000 as published in the Federal Register, Vol 65, No. 54603, September 08, 2000.
2. The specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification or drawings. Applicant should note the requirements of 37 CFR § 1.74, § 1.75, § 1.84(o,p(5)), § 1.121(a)-1.121(f) & § 1.121(g)-1.121(h).
3. Claims 29, 35 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - 3.1 Since neither claim 30 nor claim 31 nor claim 33 mention verifying the identity of the customer and claim 33 already includes a step (d-1), claim 35:
 - A) is confusing since claims 33 & 35 define different steps that are labeled as "(d-1)"; and
 - B) lacks antecedent basis in claim 33 for using an identifying card to verify the identity of the customer.
 - 3.1.1 Since claim 34 recites verifying the identity of the user, should the reference to claim "33" in line 1 of claim 35, be directed to claim -34--.
 - 3.2 Since neither claim 22 nor claim 23 nor claim 28 mention verifying the identity of the customer, claim 29 lacks antecedent basis in claim 33 for using an identifying card to verify the identity of the customer.
 - 3.3 For the above reason, applicant has failed to particularly point out what is regarded as the invention.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.1 Claims 22-24 & 30 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Devinney et al (WO 98/23062).

4.1.1 In regard to claims 22-24 & 30, Devinney et al ('062) discloses a transaction machine that can accept audible instructions in natural speech from the operator at any level of access. This system then processes the operator's instructions in order to control the operation of the transaction machine.

5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

6.1 Claims 1-21, 25-29 & 31-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Devinney et al (WO 98/23062) as applied above to claims 22-24 & 30 and further in view of either Fukatsu (GB 21133392 or 4,593,183) and Johnstone et al (4,462,080).

6.1.1 In regard to claims 1-21, 25-29 & 31-35 the system of Devinney et al (WO 98/23062) does not control the operation of a transaction machine other than to verify the user permit the user access to the protected machine.

6.1.2 However, either Fukatsu ('392 or '183) disclose a transaction machine, such as an automated teller machine (ATM), that provides audible instructions in natural speech/voice to the operator of the transaction machine. It is noted that the instructions are provided to the operator in a natural speech/voice are provided in a language that has been selected by the operator after the operator has been identified via for example, an automated teller card. These systems further include an operator interface to receive commands/instructions from the operator in response to the audible instruction. The transaction machine further includes a means for processing the operator's commands/instructions so as to control the operation of the transaction machine, see figs 13, 16A-16C, 17, 18, 20 & 21). Further, ATMs are usually protected from improper access through the use of an ATM card and personnel identification number (PIN), as is common and well known.

6.1.3 Further, Johnstone et al ('080) discloses in 1984 the desirability of using audible speech to provide operating instructions to an operator of a machine and to receive commands for operating the machine from the operator.

6.1.4 Since;

A) Devinney et al (WO 98/23062) fails to disclose the nature of the protected machine;

B) Johnstone et al ('080) discloses in 1984 the desirability of using audible speech to provide operating instructions to an operator of a machine and to receive commands for operating the machine from the operator; and

C) the transaction machine of either Fukatsu ('392 or '183) uses audible instructions and includes features to protect access to the ATM;

It would have been obvious to one of ordinary skill at the time the invention was made that the protected machine of Devinney et al (WO 98/23062) could be the ATM of either Fukatsu ('392 or '183) and that the such a ATM which uses audible input device could be further modified to use audible instructions to control the ATM as suggested by Johnstone et al ('080).

6.1.5 In regard to recognizing the dialect of the user as recited in claims 3, 8, 13 & 19, since it would not be known in advance where a user of the ATM may come from, it would have been obvious to one of ordinary skill at the time the invention was made that the speech

recognition device should be able to recognize and accept instruction from any user that would normally have access to ATM of protected machine of Devinney et al (WO 98/23062) and either Fukatsu ('392 or '183) as modified in view of Johnstone et al ('080).

6.1.6 In regard to directing a microphone towards the detected location of the user as recited in claims 26 & 28, since:

A) it would not be known in advance where a user of the ATM may be positioned near the ATM; and

B) it is commonly stressed to users of protected machines to keep their passwords, PINs, etc, confidential;

it would have been obvious to one of ordinary skill at the time the invention was made that the input device used to sense the speech of the user accessing the ATM of protected machine of Devinney et al (WO 98/23062) and either Fukatsu ('392 or '183) as modified in view of Johnstone et al ('080) should be positioned in close proximity to the detected location of the user so as to ensure confidentiality of the user's personal information.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR § 1.136(a).

7.1 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR § 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Response to applicant's arguments.

8.1 All rejections and objections of the previous Office action not repeated or modified and repeated here in have been over come by applicant's last response.

8.2 As per the 35 U.S.C. § 102 and 35 U.S.C. § 103 rejections, since:

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A) Since the claims fail to recite the specific functions/operations that are to be controlled, applicant's arguments directed to this feature are directed to unclaimed distinctions and merits.

B) Since the function of the system of:

(1) Devinney et al (WO 98/23062) is to provide protected access to a machine through an audible input device;

(2) the ATMs of either Fukatsu ('392 or '183) commonly require protected access; and

(3) the system of Johnstone et al ('080) is for solving a problem in the environment of machine control;

the examiner has not used either non analogous art of hindsight in the rejection of the pending claims. Hence, applicant's argument's are non persuasive.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703)-308-2702. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

9.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

9.2 The fax phone number for OFFICIAL FAXES is (703) 305-7687.

9.3 The fax phone number for AFTER FINAL FAXES is (703) 308-3691.

07/23/02


Edward R. Cosimano
Primary Examiner A.U. 3629